

Rejection Under 35 USC Sec. 103

The Examiner is maintaining rejection of claims 1, 3-8, 10-14, 17-31, 38-41 in light of Cronk et al., Crotty and Berthold et al. The Examiner states that the combination of Cronk, Crotty and Berthold teach the device of the present invention. However, the Cronk reference makes no reference to a hydrogel or a foam or a foamed polyolefin. The Crotty reference describes a hydrogel but does not describe a vapor emitting portion. Instead, the patent describes a drug release mechanism. The Berthold et al. reference describes a hydrogel but does not describe a vapor emitting portion, either. This reference describes a wound absorption mechanism. None of the references describe foam or a foamed polyolefin.

The Examiner states that the independent claims do not recite a foamed polyolefin. However, claim 1, an independent claim, does describe a "foamed polyolefin." Claim 10 claims a "foam pad comprising a cellular structure." Remaining amended independent claims describe a "foamed polyolefin." As acknowledged by the Examiner, the references cited describe fabric and strand-based materials, not cellular foams. The Cronk and Crotty references describe fibers but not foam.

A reference or combination of references must have the elements claimed in order to render a claim obvious. In the present case, the references do not have any of the elements claimed. None of the references describe a hydrogel base and a cellular portion. None of the references describe a foamed polyolefin, and a vapor emitting portion within this cellular portion. The combination of the references does not remedy this deficiency. It is respectfully requested that the Examiner reconsider and withdraw the rejection.

Conclusion

Claims 1, 3-8, 10-14, 17-31 and 38-41 are currently pending. The applicant respectfully requests reconsideration of the amended and unamended claims now in the application and submits these claims have overcome the Examiner's rejections based on sections 112 and 103(a) and are in condition for allowance. Notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 612-373-6976 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By his Representatives,

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Date 17 February 03

By J. M. Kalis

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Box AF, Commissioner of Patents, Washington, D.C. 20231, on this 19 day of February, 2003.

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